

1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE SOUTHERN DISTRICT OF TEXAS

3 MCALLEN DIVISION

4 UNITED STATES OF AMERICA § CASE NO. 7:23-CR-00199-1
5 § MCALLEN, TEXAS
6 VERSUS § FRIDAY,
§ OCTOBER 27, 2023
LUIS FABIAN VELA § 1:18 P.M. TO 1:42 P.M.

7 **RE-ARRAIGNMENT**

8 BEFORE THE HONORABLE J. SCOTT HACKER
9 UNITED STATES MAGISTRATE JUDGE

10
11 APPEARANCES: SEE NEXT PAGE

12 ELECTRONIC RECORDING OFFICER: JENNIFER NOGUEIRA

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FOR THE DEFENDANT:

ATTORNEY AT LAW
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ALSO PRESENT:

HEATHER GARCIA, PRETRIAL

1 **MCALLEN, TEXAS; FRIDAY, OCTOBER 27, 2023; 1:18 P.M.**

2 THE COURT: All right, let me call 23-CR-00199,
3 Luis Fabian Vela.

4 MR. GARCIA: Good afternoon, Your Honor.

5 Carlos Garcia on behalf of Mr. Vella.

6 THE COURT: All right, do you have an
7 announcement?

8 MR. GARCIA: I do, Your Honor.

9 We're present and ready for a plea.

10 THE COURT: All right, and there's no plea
11 agreement.

12 MR. GARCIA: Correct.

13 THE COURT: All right. Mr. Vela, do you prefer
14 English?

15 DEFENDANT VELA: Yes, sir.

16 THE COURT: Let me ask you to raise your right
17 hand and take an oath for the court.

18 You know, my script's not up here.

19 (Defendant sworn.)

20 THE COURT: All right, you can put your hand
21 down.

22 Now, Mr. Vela, you are under oath. Do not lie to
23 the Court during this process. If you do, the Government
24 can use the statements that you make today against you and
25 charge you with a separate criminal offense, either for

1 perjury or false statement. I want to remind you you have
2 the right to remain silent here in this hearing. Any
3 statements that you make regarding the charge or allegations
4 can be used against you to prosecute them.

5 Do you understand, sir?

6 DEFENDANT VELA: Yes, sir.

7 THE COURT: Now, you're here before the Court
8 because it's my understanding that you want to enter a
9 guilty plea. However, before I start this process with you,
10 I need to let you know that you have the right to have your
11 plea taken or this hearing heard before the District Judge.
12 I am a Magistrate Judge. I cannot find you guilty and I
13 cannot sentence you.

14 However, with your consent or agreement today, I
15 can preside over this hearing, and if you do in fact go
16 through with a guilty plea at the end, I can make a report
17 and recommendation to the District Judge that she find you
18 guilty and sentence you accordingly. In fact, it's my
19 understanding that you signed a consent form to allow that
20 to happen.

21 Mr. Vela, is this your signature on the consent
22 form in front of you?

23 DEFENDANT VELA: Yes, sir.

24 THE COURT: By signing that document, you are
25 agreeing to allow me to have this hearing for you today; is

1 that what you want to do?

2 DEFENDANT VELA: Yes, sir.

3 THE COURT: All right. Now, during this process,
4 I'm going to go over various rights that you have and
5 various consequences that you are facing if you do choose to
6 enter a guilty plea. If at any time you do not hear me or
7 you don't understand something that I'm explaining to you,
8 please raise your right hand high, or when I ask you, tell
9 me you don't understand, and I will clarify things or
10 correct things so that you do understand. It's important
11 that you hear and understand everything that I explained to
12 you today.

13 Do you understand, sir?

14 DEFENDANT VELA: Yes.

15 THE COURT: Now, I need to make sure that I have
16 your correct name on this Indictment, and then I'll get some
17 background information from you.

18 Sir, is your true correct name Luis Fabian Vela?

19 DEFENDANT VELA: Yes.

20 THE COURT: Where were you born?

21 DEFENDANT VELA: McAllen.

22 THE COURT: All right, and how far did you get in
23 school?

24 DEFENDANT VELA: I have a professional degree.
25 I'm a pharmacist.

1 THE COURT: Okay, and you read and write in the
2 English language?

3 DEFENDANT VELA: Yes.

4 THE COURT: And are you married?

5 DEFENDANT VELA: I'm widowed.

6 THE COURT: Okay, and do you have any children?

7 DEFENDANT VELA: Yes.

8 THE COURT: The ages -- how many do you have?

9 DEFENDANT VELA: 4.

10 THE COURT: The ages of your 4 children?

11 DEFENDANT VELA: 31 and 21.

12 THE COURT: That's 2.

13 DEFENDANT VELA: The oldest is 31 and the
14 youngest three are all 21.

15 THE COURT: Oh, okay.

16 DEFENDANT VELA: They're triplets.

17 THE COURT: All right. You know, a couple of
18 times in this business, someone has told me that they've had
19 two kids that were 12 years old or 14 years old and said he
20 had twins, and they said no. So, I was kind of hesitant to
21 ask you that question.

22 DEFENDANT VELA: Yeah, they're triplets.

23 THE COURT: But anyway, and what kind of work do
24 you do?

25 DEFENDANT VELA: The last year and a half or two

1 years, I've been a restaurateur. I own a restaurant.

2 THE COURT: All right.

3 DEFENDANT VELA: But I worked as a pharmacist for
4 25 years.

5 THE COURT: All right, are you under the care,
6 have you ever been under the care of a medical professional
7 for the treatment of any mental health issues?

8 DEFENDANT VELA: No.

9 THE COURT: Have you ever had a head injury or a
10 brain injury in the past?

11 DEFENDANT VELA: No.

12 THE COURT: Are you under the influence of
13 alcohol, drugs, or medication at this time?

14 DEFENDANT VELA: No.

15 THE COURT: In the last 72 hours, have you taken
16 any alcohol, drugs, or medication?

17 DEFENDANT VELA: No.

18 THE COURT: Mr. Garcia, are you satisfied your
19 client is competent to go forward with a guilty plea?

20 MR. GARCIA: Yes, sir.

21 THE COURT: Mr. Vela, I need to make sure that
22 you've had enough time to discuss your case with your
23 attorney and get your questions answered so that you feel
24 comfortable going forward with that decision today.

25 Have you had enough time to discuss your case

1 with your attorney?

2 DEFENDANT VELA: Yes.

3 THE COURT: Are you satisfied with his legal
4 representation?

5 DEFENDANT VELA: Yes.

6 THE COURT: Let me read the charge that you're
7 pleading to. This is an offense under Title 18 USC Section
8 2422(b). It reads from on or about September 29th, 2022
9 through on or about October 5th, 2022, in the Southern
10 District of Texas and jurisdiction of the Court that you did
11 use a facility in means of interstate and foreign commerce
12 to knowingly persuade, induce, entice, and coerce, or
13 attempt to persuade, induce, entice, and coerce an
14 individual who has not attained the age of 18 years to
15 engage in prostitution or any sexual activity for which said
16 Defendant could be charged with an offense. They're saying
17 that is receipt and attempted receipt of child pornography
18 in violation of Title 18 USC Section 2252(a)(2)(A).

19 Now, what the Government would have to prove in
20 this offense against you, they would have to prove that you
21 knowingly persuaded, induced, enticed, or coerced, or you
22 attempted to persuade, induce, entice, or coerce an
23 individual to engage in any sexual activity or prostitution
24 as charged in the Indictment. The Government would have to
25 prove that you used the internet, or the mail, or a

1 telephone, or a cell phone, or any facility or means of
2 interstate or foreign commerce to do it or to do so. The
3 Government has to prove that you believed that such
4 individual was less than 18 years of age, and the Government
5 would have to prove that had the sexual activity actually
6 occurred, you could have been charged with a criminal
7 offense of receipt and attempted receipt of child
8 pornography under the laws of the United States,
9 specifically Title 18 USC Section 2252(a)(2)(A).

10 Sir, do you understand this charge against you?

11 DEFENDANT VELA: Yes.

12 THE COURT: Do you have any questions about the
13 charge?

14 (No audible response.)

15 THE COURT: Excuse me?

16 DEFENDANT VELA: No.

17 THE COURT: All right. Now, connected to your
18 case, you have the right to have an attorney to represent
19 you throughout that case, your case, and you have that right
20 even if you cannot afford an attorney. Now, you have
21 retained Mr. Garcia to represent you as your attorney, and
22 you need to understand that if you wanted to go to trial on
23 this offense, or your case, and have further hearings, and
24 you could not afford to pay him to represent you at trial in
25 further hearings, that the Court would be obligated to give

1 you a Court appointed attorney for free to represent you at
2 trial or further hearings if you wanted and needed.

3 Do you understand, sir?

4 DEFENDANT VELA: Yes.

5 THE COURT: Now, you also have the right to enter
6 a plea of not guilty today to this charge as you did to
7 begin with, and if you wish to go forward with a plea of not
8 guilty, you have a right to a jury trial. You have the
9 right to have 30 days to prepare for that trial. At the
10 trial, the Government must prove your guilt beyond a
11 reasonable doubt.

12 The jury is made up of 12 citizens of this
13 community, and the jury would be the one to decide whether
14 you're guilty or not guilty. In connection with the jury
15 trial, you have the right to have the Government present the
16 witnesses that would testify against you. You have the
17 right through your attorney to ask questions of those
18 witnesses. That's called your right to cross-examination.

19 You have the right to present evidence at that
20 trial. You have the right to present witnesses of your own
21 and make them be present in court to testify even if they
22 wish not to do so. You have the right to testify at your
23 trial if you wish. You also have the right to choose not to
24 testify and to remain silent, and if for any reason you make
25 that choice not to testify at your trial, your decision not

1 to testify cannot be considered by the jury as evidence of
2 guilt or evidence of anything else in your case.

3 These are all rights that you have if you wish to
4 go forward with a plea of not guilty.

5 Do you understand, sir?

6 DEFENDANT VELA: Yes.

7 THE COURT: Now, if you choose to plead guilty
8 today, you'll be giving up all of these rights that I've
9 just explained to you because if you enter a guilty plea,
10 there's not going to be a jury trial. The District Judge
11 will be the person that decides if you are guilty or not
12 guilty. There will be no witnesses presented except for
13 yourself because you'll become a witness in your case.
14 Basically, what happens is the Government will tell the
15 Court facts about your case, I'll ask you some questions
16 regarding those facts, and you'll have to answer those
17 questions for me. That means you'll be giving up your right
18 to remain silent.

19 Do you understand, sir?

20 DEFENDANT VELA: Yes.

21 THE COURT: Now, with this understanding, do you
22 wish to give up your right to a jury trial, the right to
23 have witnesses presented, both yours and the Government's,
24 and your right to remain silent? Do you wish to give up
25 these rights today by entering a guilty plea?

1 DEFENDANT VELA: Yes.

2 THE COURT: Well, just out of an abundance of
3 caution, Mr. Vela, you were looking at your attorney for an
4 answer, and I want you to know this is your decision. It's
5 not your attorney's decision.

6 DEFENDANT VELA: Yeah, we discussed all that.

7 THE COURT: Do you need time to speak to
8 Mr. Garcia?

9 DEFENDANT VELA: No, we already discussed it.

10 THE COURT: Okay, and I just want you to know
11 that if you want to exercise your right to a trial, that's
12 your decision alone to make.

13 DEFENDANT VELA: Correct.

14 THE COURT: So, are you willing to give up these
15 rights today and go forward with the process of pleading
16 guilty?

17 DEFENDANT VELA: Yes.

18 THE COURT: All right.

19 Now, have you spoken with your attorney about
20 what you may be facing by way of punishment if you're found
21 guilty in your case?

22 DEFENDANT VELA: Yes.

23 THE COURT: If you plead guilty to this charge in
24 your Indictment, you're facing a minimum mandatory sentence
25 of 10 years in prison and a maximum of life in prison.

1 Do you understand, sir?

2 DEFENDANT VELA: Yes.

3 THE COURT: Now, you're also facing what we call
4 a period of supervised release. Regarding supervised
5 release, you're facing a minimum of 5 years of supervised
6 release and a maximum of, excuse me, life of supervised
7 release. Supervised release is a period of time after
8 you've been released from prison. You're not in custody
9 anymore, but you're still kept under Court supervision.

10 While on supervised release, the Court orders you
11 to do or not to do certain things, and any violations of
12 your supervised release could result in more prison time in
13 your case.

14 Do you understand, sir?

15 DEFENDANT VELA: Yes.

16 THE COURT: Now, the law also sets out that you
17 could be fined up to \$250,000 based on your ability to pay
18 and a \$100 special assessment even if you do not have the
19 ability to pay.

20 Do you understand, sir?

21 DEFENDANT VELA: Yes.

22 THE COURT: Probation or Government, does that
23 \$5,000 special assessment under the Victims Act of
24 Trafficking apply to this offense?

25 MS. WALKER: Yes, Your Honor, it does.

1 THE COURT: It does?

2 MS. WALKER: Yes. Your Honor.

3 THE COURT: There's also a second special
4 assessment that could be added to your sentence. It's a
5 \$5,000 special assessment, and it's also based on your
6 ability to pay under the Justice for Victims of Trafficking
7 Act.

8 Do you understand, sir?

9 DEFENDANT VELA: Yes.

10 THE COURT: Now, the law also requires that the
11 Court determine if you should pay restitution in your case.
12 Restitution is an amount of money that the Court determines
13 and orders a person to pay a victim in the case of the
14 offense to make them whole, and this would include any
15 victim that could be identified through any images or videos
16 that were in your possession.

17 Do you understand, sir?

18 DEFENDANT VELA: Yes.

19 THE COURT: The law also sets out that if you
20 plead guilty, you're going to be classified as a sex
21 offender and it will require you to register as a sex
22 offender. If you are convicted, it will require you to
23 register as a sex offender as required under federal and
24 state laws.

25 Do you understand?

1 DEFENDANT VELA: Yes, sir.

2 THE COURT: All right.

3 Government, do you think that was admonished
4 adequately?

5 MS. WALKER: Yes, Your Honor.

6 THE COURT: Mr. Garcia?

7 MR. GARCIA: Yes, Your Honor.

8 THE COURT: Now, Mr. Vela, have you discussed
9 with your attorney how the Sentencing Guidelines apply to
10 your case?

11 DEFENDANT VELA: Yes.

12 THE COURT: Now, within the statutory penalty
13 ranges that we went over, the District Judge will look at
14 the Sentencing Guidelines in sentencing you. And the
15 Sentencing Guidelines provide the District Judge with a
16 range of months that the Judge should consider when deciding
17 your actual sentence. Basically, what will happen if you
18 plead guilty and the District Judge finds you guilty, your
19 case will be set for sentencing.

20 At your sentencing, the District Judge will
21 consider all the Guidelines that apply to your case. She'll
22 consider everything else that's presented to her in your
23 case as well as the law that applies to sentencing. The
24 District Judge will then decide what sentence you should
25 receive. That sentence could be within your guideline

1 range, it could be less than your guideline range, it could
2 be more than your guideline range provided that you are
3 sentenced within the statutory penalties that apply to your
4 case, which sets a minimum of 10 years and a maximum of
5 life.

6 So, as to the Sentencing Guidelines, all the
7 District Judge has to do is consider them. She does not
8 have to follow them.

9 Do you understand, sir?

10 DEFENDANT VELA: Yes.

11 THE COURT: Now, it's important for you to
12 understand that while the Court expects your attorney to
13 have given you an estimated Guideline range that the
14 attorney believes applies to the case, you need to
15 understand that the estimate, it is not a promise. It is
16 not a guarantee. It is the District Judge that decides what
17 the correct Guideline range is, and she does not do that
18 until the time of sentencing.

19 So, whatever your attorney has told you, it could
20 turn out to be different at sentencing, and if it is
21 different, you would not be able to withdraw your guilty
22 plea.

23 Do you understand, sir?

24 DEFENDANT VELA: Yes.

25 THE COURT: Now, have you understood everything

1 that we've explained so far?

2 DEFENDANT VELA: Yes.

3 THE COURT: Do you have any questions about what
4 we've covered?

5 DEFENDANT VELA: No.

6 THE COURT: Now, it's my understanding you do not
7 have a plea agreement with the Government.

8 Government, were there any plea agreements
9 offered to this individual?

10 MS. WALKER: No, Your Honor.

11 THE COURT: Is that correct, Mr. Garcia?

12 MR. GARCIA: That's correct, Your Honor.

13 THE COURT: All right. Now, Mr. Vela, I don't
14 think anyone's promised you anything to get you to plead
15 guilty today but if someone has promised you something,
16 either your attorney, the Government, or someone else to get
17 you to plead guilty, you need to tell the Court so that we
18 can make a record of it, to make sure it's appropriate, to
19 make sure it's a promise you can rely on.

20 Has anyone made you any promises to get you to
21 plead guilty to that?

22 DEFENDANT VELA: No.

23 THE COURT: Has anyone forced you, coerced you,
24 or threatened you to get you to plead guilty today?

25 DEFENDANT VELA: No.

1 THE COURT: Are you pleading guilty today freely
2 and voluntarily?

3 DEFENDANT VELA: Yes.

4 THE COURT: Are you pleading guilty because you
5 did what the Government is accusing you of in this offense?

6 DEFENDANT VELA: Yes.

7 THE COURT: Now, you're a United States citizen.
8 You said you were born in McAllen. And the reason I have to
9 ask that is because if you weren't, I'd have to tell you you
10 could be deported or removed and sent back to your home
11 country. You could be denied admission and denied
12 citizenship in the future in the country. But since you're
13 a United States citizen, that doesn't apply to you.

14 Do you understand?

15 DEFENDANT VELA: Yes.

16 THE COURT: Now, we talked about a lot today.
17 We've talked about the charge that you're pleading to in the
18 indictment. We talked about your right to a jury trial and
19 the rights that go with it. We talked about the statutory
20 penalties. We talked about the Sentencing Guidelines. We
21 talked about that you didn't have a plea agreement and other
22 things.

23 And the point is, nothing that I've explained to
24 you today should have been a surprise to you. You should
25 have discussed all of these areas with your attorney before

1 seeing me. That's important in making a knowing and
2 voluntary plea. If for some reason you don't remember
3 discussing something that I've covered today with the
4 attorney, that's okay. Answer the next question no, and
5 I'll give you more time to see your attorney or speak with
6 your attorney.

7 You can go over those areas you don't remember
8 discussing. You can ask your attorney questions, and I'll
9 just bring you back a little later to see if you still want
10 to plead guilty.

11 So, my question is, have you discussed everything
12 that I've covered with you today with the attorney before
13 seeing me?

14 DEFENDANT VELA: Yes.

15 THE COURT: All right, I'm going to simply ask
16 you how you plead to this charge in your Indictment. You
17 simply just need to say guilty or not guilty. If you choose
18 to plead guilty, we'll get a factual basis from the
19 Government and you tell me what you agree or don't agree
20 with.

21 Sir, how do you plead to this charge in your
22 Indictment? Guilty or not guilty?

23 DEFENDANT VELA: Guilty.

24 THE COURT: All right, listen carefully what the
25 Government states. Let me know if you disagree with

1 anything.

2 MS. WALKER: From September 29th, 2022 through
3 October 5th, 2022, in the Southern District of Texas, the
4 Defendant did use a facility and means of interstate and
5 foreign commerce to knowingly persuade, induce, entice, and
6 coerce an individual who has not attained the age of 18 to
7 engage in any sexual activity for which any person could be
8 charged with a criminal offense, that is, receipt and
9 attempted receipt of child pornography in violation of
10 18 USC 2252(a)(2)(A).

11 From September 29th, 2022 through October 5th,
12 2022, the Defendant engaged in WhatsApp communications with
13 Minor Victim 1. Whatsapp utilizes the internet, which is a
14 means of interstate and foreign commerce. Throughout the
15 conversation, Minor Victim 1 told the Defendant they are
16 16 years old. After Minor Victim 1's age was established,
17 the Defendant instructed Minor Victim 1 on how to take
18 images of the genital area. As a result, Minor Victim 1
19 produced videos and photographs of child pornography and
20 sent them to the Defendant. The Defendant paid Minor
21 Victim 1 in exchange for the images of Minor Victim 1.

22 These videos and images of Minor Victim 1 meet
23 the federal definition of child pornography as defined in 18
24 USC Section 2256(8). The Defendant's conduct to obtain the
25 child pornography images of Minor Victim 1 constitutes

1 receipt and attempted receipt of child pornography in
2 violation of 18 USC Section 2252(a)(2)(A).

3 THE COURT: All right. Mr. Vela, do you disagree
4 with any of those facts?

5 DEFENDANT VELA: No.

6 THE COURT: Sir, they're basically saying that
7 from September 29th, 2022 through on or about October 5th,
8 2022, that you were communicating with a person over the
9 WhatsApp application.

10 Is that true?

11 DEFENDANT VELA: Yes.

12 THE COURT: And you were using the internet.

13 Is that true?

14 DEFENDANT VELA: It was a phone. It was -- yeah,
15 I guess, it was internet. Had to have been whatever it was
16 the phone uses, data, cellular data --

17 THE COURT: Okay, but you were using the
18 WhatsApp.

19 Is that true?

20 DEFENDANT VELA: Yes.

21 THE COURT: All right, and they're saying that
22 this person that you were in contact with and having
23 communications was 16 years old.

24 Is that true?

25 DEFENDANT VELA: That's what she told me.

1 THE COURT: Okay, they're saying that in the
2 communications you had with this minor, you persuaded them
3 or induced them to take pictures of their genitalia and send
4 them to you.

5 Is that true?

6 DEFENDANT VELA: Yes.

7 THE COURT: Did that happen?

8 DEFENDANT VELA: Yes.

9 THE COURT: And they're saying in return you paid
10 this minor.

11 Is that true?

12 DEFENDANT VELA: Yes.

13 THE COURT: Anything else regarding the factual
14 basis, Government?

15 MS. WALKER: No, Your Honor.

16 THE COURT: Anything else regarding the factual
17 basis, Mr. Garcia?

18 MR. GARCIA: No, Your Honor.

19 THE COURT: Government, are you satisfied he's
20 made a knowing and voluntary plea?

21 MS. WALKER: Yes. Your Honor.

22 THE COURT: And you did receive those images,
23 correct?

24 DEFENDANT VELA: Yes.

25 THE COURT: All right, do you think your client

1 has made a knowing and voluntary plea, Mr. Garcia?

2 MR. GARCIA: Yes, Your Honor.

3 THE COURT: I'll find that it is a knowing and
4 voluntary plea, that he is competent and capable of making
5 that plea, and he understands the nature of the charge
6 against him and the consequences of the plea and guilty.
7 I'll find there's a factual basis in the record to support
8 the plea. I'll enter a report and recommendation to the
9 District Judge that she should find him guilty and sentence
10 him accordingly.

11 His Presentence Report will be due December 1st,
12 2023, objections will be due December 15th, 2023, the final
13 will be due December 29th, 2023, and his sentencing date
14 will be set before the District Judge for January the 17th,
15 2024 at 9:00 a.m.

16 Have you understood everything to this point,
17 Mr. Vela?

18 DEFENDANT VELA: Yes.

19 THE COURT: Anything else regarding the plea or
20 instructions?

21 Government?

22 MS. WALKER: Nothing further, Your Honor.

23 THE COURT: Mr. Garcia?

24 MR. GARCIA: No, Your Honor.

25 THE COURT: Now, on the issue of bond,

1 Government, is there any objection to him staying out on
2 bond?

3 MS. WALKER: No, Your Honor.

4 THE COURT: Do you want to say anything for the
5 record regarding that, Mr. Garcia?

6 MR. GARCIA: Your Honor, respectfully. Mr. Vela
7 recently lost his spouse, wife, has two adult children who
8 are autistic, two of the three triplets. One of them is
9 homebound in diapers. They do require a lot of assistance
10 and a lot of help from Mr. Vela. He cooks for them, he
11 shops for them, and takes care of them every day. He needs
12 to make arrangements for them and for his various interests
13 in the community.

14 Respectfully, I asked the Court to consider the
15 fact that he has no criminal history, he's a US citizen, has
16 strong ties to the community, is not a risk of flight, and
17 is not a danger to the community.

18 THE COURT: All right.

19 Government, do you know whether or not there's
20 been any violations of his bond conditions?

21 MS. WALKER: There has not been any violations,
22 Your Honor.

23 THE COURT: All right, and I'll note that I did
24 review the Pretrial Services Report that was initially
25 entered into the case when a bond was granted. I think the

1 only criminal history I saw was an old DWI where there was
2 no issues on probation I don't think, and then there was no
3 conduct up to this offense.

4 I guess, Government, let me ask you, was this
5 conduct more ongoing or is that going to be something I
6 should be concerned with?

7 MS. WALKER: Is his conduct ongoing, Your Honor?

8 THE COURT: I guess, what I'm saying is, I mean,
9 you know, you gave me a factual basis of one incident over
10 this relatively short period of time; is there any reason to
11 think this has been going on for years or --

12 MS. WALKER: We have not found any evidence of
13 anything else, Your Honor.

14 THE COURT: Okay, like I said, based on my
15 understanding that there's no evidence of any other further
16 criminal activity, and more specifically, while he's been
17 out on bond, I will make a finding that there is clear and
18 convincing evidence that he's not a flight risk or a danger
19 to the community and allow him to stay out on bond under the
20 same terms and conditions that have been previously imposed
21 by the Court.

22 I do know that you have an opposed Motion to
23 Modify the Conditions. Judge Alvarez has kept that. So, I
24 don't know if --

25 MR. GARCIA: Yes, Judge.

1 THE COURT: -- (indiscernible) ruled that or not.

2 MR. GARCIA: Thank you.

3 THE COURT: Anything else from the Government?

4 MS. WALKER: No, Your Honor.

5 THE COURT: Anything else from Mr. Garcia?

6 MR. GARCIA: No, Your Honor.

7 THE COURT: All right, does he need to be
8 remanded or anything to be rereleased, or -- all right, then
9 you're free to go.

10 MR. GARCIA: Thank you. Judge.

11 (Proceedings adjourned at 1:42 p.m.)

12 * * * * *

13 I certify that the foregoing is a correct
14 transcript to the best of my ability produced from the
15 electronic sound recording of the proceedings in the above-
16 entitled matter.

17 /S/ MARY D. HENRY

18 CERTIFIED BY THE AMERICAN ASSOCIATION OF

19 ELECTRONIC REPORTERS AND TRANSCRIBERS, CET**337

20 JUDICIAL TRANSCRIBERS OF TEXAS, LLC

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